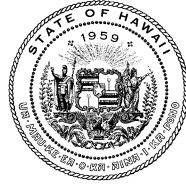


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To: The Honorable Sylvia Luke, Chair;  
The Honorable Ty J.K. Cullen, Vice Chair;  
and Members of the House Committee on Finance

From: Rona M. Suzuki, Director  
Department of Taxation

Re: **H.B. 2708, H.D. 1, Relating to Taxation**

Date: Thursday, February 20, 2020

Time: 12:00 P.M.

Place: Conference Room 308, State Capitol

The Department of Taxation (Department) appreciates the intent of H.B. 2708, H.D. 1, and provides the following comments. This measure requires the Department to authorize individual taxpayers claiming the earned income tax credit (EITC) to elect to reduce their withholding by the amount of the expected EITC. H.B. 2708, H.D. 1, has a defective effective date of January 1, 2050, and otherwise applies to taxable years beginning after December 31, 2020.

This bill is not necessary as individuals can currently reduce their withholding based on their expected tax liability, including expected credits. For example, the Department recommends taxpayers add a withholding allowance if at least \$250 in credits is expected.

It may be simpler for employers to administer the withholding tax if the amount is based on allowances instead of the prospective amount of the EITC, divided by the number of withholding periods. The Department suggests amending subsection (e) to read:

(e) For any taxable year beginning after December 31, 2020 for which the earned income tax credit provided under section 235-55.75 is available, the department shall authorize any individual taxpayer who qualifies for the credit to elect to reduce the amount of tax withheld from the taxpayer's wages for each withholding period, by an amount equal to the prospective amount of the earned income tax credit that the taxpayer would otherwise be entitled to claim.

The department shall adopt rules pursuant to chapter 91 and shall prepare any forms or amend existing forms as necessary to effectuate the purposes of this subsection.

The Department also notes a possible technical error in subsection (e) of the bill. On page 5, line there is a reference to section 235-55.75(h). There is no subsection (h) in section 235-55.75, Hawaii Revised Statutes (HRS). This is possibly a reference to section 235-55.75(g), HRS.

Finally, the Department is able to administer this measure for taxable years beginning after December 31, 2020 provided that a functional effective date is inserted.

Thank you for the opportunity to provide comments.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TAXATION; Wages

BILL NUMBER: HB 2708, HD-1

INTRODUCED BY: House Committee on Labor & Public Employment

EXECUTIVE SUMMARY: Requires the department of taxation to authorize qualifying individual taxpayers to elect to reduce the amount of tax withheld from their wages for each withholding period, by an amount equal to the prospective amount of the earned income tax credit that the taxpayer would otherwise be entitled to claim on an annual basis. Takes effect on 1/1/2050. This measure is not necessary but may be designed to prod the Department to revise its withholding form to one that complies with current law.

SYNOPSIS: Amends section 235-61, HRS, to add a subsection providing that for any taxable year beginning after December 31, 2020, the department shall authorize any qualifying individual taxpayer to elect to reduce the amount of tax withheld from the taxpayer's wages for each withholding period, by an amount equal to the prospective amount of the earned income tax credit that the taxpayer would otherwise be entitled to claim pursuant to section 235-55.75, divided by the number of withholding periods for the applicable taxable year.

Defines "qualifying individual taxpayer" as an employee who claims the earned income tax credit under section 235-55.75.

EFFECTIVE DATE: January 1, 2050, and shall apply to taxable years beginning after 12/31/2020.

STAFF COMMENTS: As observed in the Labor Committee's report, this measure is designed to help working families by allowing qualified families to benefit from the earned income tax credit as they receive their regular paychecks, rather than having to wait a year to claim the tax credit.

The Foundation observes that section 235-61(g), HRS, already states that for purposes of withholding "the employee may take into account (to the extent and in the manner provided by rules) estimated itemized deductions and tax credits allowable under this chapter." However, the Department's rules and withholding form, Form HW-4, do not presently provide any mechanism for an employee to do this.

In addition, Form HW-4 states on the form: "**Note: Hawaii law does NOT allow "EXEMPT" status for withholding purposes.**" However, this statement does not appear to be accurate. The statement is inconsistent with the previously quoted section 235-61, HRS. Furthermore, HAR section 18-235-61-09(e) states: "If an employee no longer qualifies for a complete exemption from income tax withholding, an amended Form HW-4 shall be filed to reflect the change and allow for withholding of taxes." The rules presuppose that an HW-4 could be filed that would

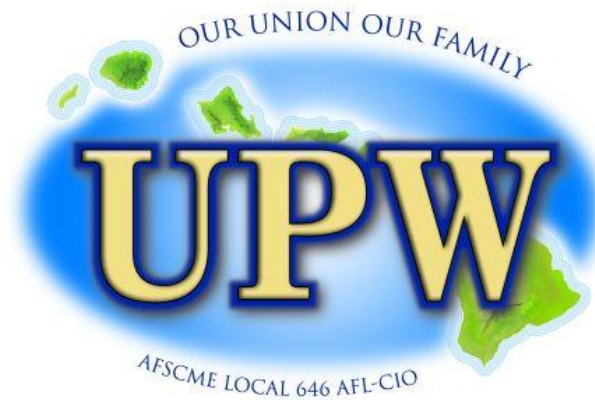
Re: HB 2708, HD-1  
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declare a complete exemption from withholding. Federal Form W-4 does allow a complete exemption to be declared.

This measure, therefore, technically is not necessary but may be designed to prod the Department to revise Form HW-4 to one that complies with current law.

Digested 2/18/2020

**LATE**



THE HAWAII STATE HOUSE OF REPRESENTATIVES

The Thirtieth Legislature  
Regular Session of 2020

COMMITTEE ON FINANCE

Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair

Date of Hearing: Thursday, February 20, 2020  
Time of Hearing: 12:00 p.m.  
Place of Hearing: Conference Room 308  
State Capitol  
415 South Beretania Street

**Testimony on HB2708, HD1 Relating to Taxation**

By DAYTON M. NAKANELUA,  
State Director of the United Public Workers,  
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO. The UPW is the exclusive bargaining representative for approximately 13,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and four counties. The UPW also represents about 1,500 members in the private sector.

HB2708,HD1 requires the department of taxation to authorize qualifying individual taxpayers to elect to reduce the amount of tax withheld from their wages for each withholding period, by an amount equal to the prospective amount of earned income tax credit that the taxpayer would otherwise be entitled to claim on an annual basis. This is one excellent way to help working families keep their income earlier rather than annually filing a claim. The UPW supports this measure.

Thank you for the opportunity to submit this testimony.

